

GARY L. PRYOR  
DIRECTOR  
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# County of San Diego

## DEPARTMENT OF PLANNING AND LAND USE

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## PROTOCOLS FOR PROJECTS REQUIRING HABITAT LOSS PERMITS

County, CA Department of Fish and Game and US Fish and Wildlife staff shall adhere to the following protocol when reviewing projects that will require Habitat Loss Permits pursuant to the County's Habitat Loss Permit Ordinance (Ord. #'s 8365, 8380 and 8608). If unusual circumstances cause a variance from this protocol, each agency shall be notified as soon as possible.

- 1) When possible, agencies should contact one another by phone to avoid potentially unnecessary letters. For specific questions regarding a particular project, agencies should contact the biologist assigned to that project. Each agency shall also assign a single contact person for general questions and concerns regarding Habitat Loss Permits. This contact person shall also be the person to which agendas and various other correspondences should be directed.
- 2) All projects that will require a Habitat Loss Permit at some point over the course of project implementation shall have draft NCCP 4(d) Findings and agency consultation completed at the earliest possible discretionary action for a project. However, the actual Habitat Loss Permit shall not be issued until just prior to a grading or clearing permit being issued. For example, proposed tentative maps shall be taken to batching and will have draft NCCP 4(d) Findings written. The Habitat Loss Permit based on these findings shall not be issued until a grading or clearing permit is necessary.

Projects such as General Plan Amendments and Specific Plans may be too general in nature to have draft NCCP 4(d) Findings written. For these projects, the County and wildlife agencies will work together to ensure that issues related to the NCCP 4(d) Findings are addressed to the extent possible until such time that a more detailed project description is provided (at which time the Findings could be written).

- 3) Review of an application for a Habitat Loss Permit that is based on previously completed draft NCCP 4(d) Findings shall include an update of the Findings and any necessary biological information depending on

the length of time, whether there have been changes to the project design that affect biological resources and the likelihood of significant changes in circumstances or new information since completing the previous environmental review. Surveys, particularly those for the California gnatcatcher, are generally valid for one year. This timeline may be adjusted in some cases as determined by discussions between the County and the wildlife agencies.

- 4) The initial review of a project by County and wildlife agency staff may encompass impacts to any and all biological resources. However, subsequent review and analysis of a Habitat Loss Permit application which had previous environmental review shall concentrate only on issues related to the NCCP 4(d) Findings, including impacts to coastal sage scrub and its associated species, habitat connectivity, effects on the future assembly of a subregional NCCP and direct and/or indirect impacts on any listed species. Project impacts not directly related the NCCP 4(d) Findings shall be considered if changes in circumstance have occurred or new information has been obtained that was not known at the time the previous environmental review was completed (refer to CEQA §15162).
- 5) Draft Habitat Loss Permits shall have a 45-day public review period regardless of the type of environmental document prepared (i.e. negative declaration, EIR, etc.). Timelines required by CEQA (based on the type of environmental document prepared) shall be extended to coincide with the full 45-day review of the draft HLP. This review period need only occur once. Therefore, if an HLP with NCCP 4(d) Findings have been advertised for 45 days with the original environmental review documents, then the Habitat Loss Permit does not need an additional public review period with subsequent actions unless substantial changes have occurred (based on the standards set by CEQA, §15162). It is during this initial 45-day review period in which the agencies should send comment letters stating issues of concern and/or specific changes or mitigation measures required. To avoid confusion regarding the start of the one-year period for which the final HLP is valid, the wildlife agencies should not grant concurrence at this stage. Instead, the agencies should wait until the 30-day agency review period following the issuance of the final HLP.
- 6) At the end of the 45-day public review period, the County shall do one of the following with the draft HLP:
  - a. If the current discretionary project does not authorize grading and/or clearing (i.e. tentative map, major use permit, etc.), the draft HLP shall be kept in the environmental file until such time an applicable permit is requested and an actual HLP is necessary.

The process for using and/or updating previous environmental review, including draft HLPs, is outlined elsewhere in this protocol.

- b. If the current discretionary project is a grading permit, a clearing permit or improvement plans, the County will prepare the final HLP following the end of the 45-day public review period. The final HLP shall include any changes necessary to address significant issues that arose during the public review of the draft HLP and shall incorporate any changes and/or mitigation measures requested by the wildlife agencies during the public review period. The issuance of the final HLP may be delayed somewhat depending on the timing of the grading permit and its approval by the Department of Public Works. Whether it is immediately following the 45 day public review period or a short period later, County staff shall send the final, conditionally approved HLP to each of the wildlife agencies for a final 30-day review period, which begins the day the wildlife agencies receive the approved Habitat Loss Permit from the County. County staff shall send all Habitat Loss Permit applications via Federal Express or certified mail to ensure that the wildlife agencies receive the permit the same day, and to ensure that there is documentation to identify the commencement date of the 30-day review period. During this 30 day period, the wildlife agencies may choose to do one of the following:

- Send a letter concurring with the issuance of the Habitat Loss Permit.
- Send a letter stating they do not concur, at which time the Habitat Loss Permit is null and void until such time the agencies grant their concurrence (refer to comment #7 for procedures to follow).
- If the agencies choose not to respond during the 30-day period, the County will assume they concur and the Habitat Loss Permit will be considered valid.

- 7) It is the intent of all agencies involved that issues and concerns related to a project be resolved prior to the County approving a Habitat Loss Permit. If, however, the wildlife agencies receive an application for a Permit for which they do not concur, the agencies must respond during the 30-day agency review period with a non-concurrence letter stating their concerns. The County will notify the applicant and effectively revoke the permit. The agencies will then have 60 days from the date of their "non-concurrence" letter to provide the applicant and the County with recommendations for modifications to the project or mitigation measures in order to allow a Habitat Loss Permit to be issued.
- 8) Habitat Loss Permits shall state that the permit is valid for one year commencing the day concurrence by both agencies is either granted (through a letter to the County) or implied (as evident by allowing the 30

day agency review period to lapse without sending a letter). If the applicant has not completed their clearing and/or grading within the one year time period, an application for a new Habitat Loss Permit must be submitted and the process outlined in this protocol repeated.

- 9) Batching meetings will take place on the third Thursday of each month. Representatives from each agency must be present. The following protocol will apply to these batching meetings:
  - a. All projects that will eventually require a Habitat Loss Permit shall be taken to at least one scheduled batching meeting early in the discretionary process. In order for the agencies to have a full and fair review of the project, the biological documents (i.e. report, vegetation map, etc.) should be technically accurate in their content and depiction of the project site before a project is taken to batching. Therefore, County staff should wait until the report and accompanying documents are technically correct and reflect the true conditions of the site. The exception to this rule applies when County staff feels they or the applicant requires guidance on project design, in which case an early batching meeting may be scheduled to discuss these issues. A second batching meeting would be scheduled for these projects after the technical documents have been adequately revised.
  - b. To avoid excessively long meetings, each batching meeting shall be limited to six projects and no more than 30 minutes may be spent on one particular project. If the scope and/or complexity of the project are such that 30 minutes may not be enough, County staff shall coordinate a separate consultation with the wildlife agencies. If this is the case, the protocol established for batching meeting shall also apply to these separate meetings.
  - c. The County shall send all materials necessary for review of each project along with the prepared agenda to the contact person at each of the wildlife agencies at least 14 working days prior to the meeting date. It is the responsibility of the lead contact person at each agency to ensure that they have received all items listed on the agenda as attachments for each project prior to the batching meeting. The agenda should contain the following information for each project:
    - i. Project name and numbers
    - ii. General project location
    - iii. A statement as to why a particular project is at batching (i.e. early guidance on design issues or specific recommendations on mitigation, etc.)
    - iv. A thorough project description
    - v. If not detailed in the biological report, a list of direct and indirect impacts and proposed mitigation


- vi. A list of all project-related documents and materials attached for review
- d. A complete review package for each project being presented at the batching meeting will accompany the agenda. The contents of these packages shall vary depending on size, nature and scope of each project. In general, the package shall include:
  - i. Map of project location
  - ii. Biological Resources Map
  - iii. Project plot plan (may be shown on biological resources map)
  - iv. Biological Report (if one is completed) along with results of all focused surveys
  - v. Aerial or ortho photo from County GIS. A photo with the project plot plan and/or biological resources overlay may be completed for larger, more complex projects (those typically requiring an EIR)
  - vi. A description of the project site's location in relation to various regional conservation planning efforts (if available).
  - vii. Figure from County GIS showing open space easements, preserves, County parks and other publicly owned land (if any are located within vicinity of site)
  - viii. Any other maps or figures which would present information that may be helpful to the review of the project (i.e. GIS figures of CSS in the region, etc.)
- e. Staff from each agency must be present, have reviewed the relevant materials and be prepared to make recommendations on each project. If one of the wildlife agencies is unable to attend, then that agency shall choose one of the following: 1) they may choose to have the other wildlife agency make decisions for both agencies or 2) they may contact each agency to cancel or postpone the batching meeting. If a County staff member assigned to a project will be unable to attend, they shall either appoint someone to cover their project or pull their project from the agenda and notify the other agencies of the change.
- f. Each agency shall send staff with the authority to make decisions on most projects. For projects with extenuating circumstances such that staff from one agency must consult with a supervisor prior to making a decision, written recommendations shall be forwarded to the other two agencies within 10 working days of the batching meeting (an informal memo either faxed or emailed shall suffice).
- g. Final recommendations from County and wildlife agencies should be made at the batching meeting. However, decisions on a project

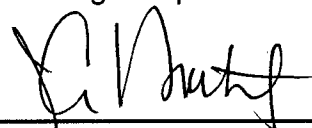
may be postponed if all agencies agree that a site visit or additional information is necessary, particularly if new information is submitted at a batching meeting.

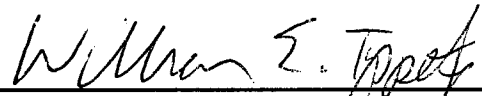
- h. Applicants may have up to two representatives attend the meeting. One of these people should be the biological consultant if one has been retained. The applicant or his representative may be given one opportunity to speak about their project (they shall be allowed to make one 3-5 minute statement and answer questions posed by the agencies). If the applicant introduces new information not previously available to staff, the project shall be continued until the next batching meeting in order for staff to review the information prior to making decisions.
  - i. The County will have a facilitator present to monitor the progress of the batching meeting. The facilitator shall be responsible for ensuring time limits are met (30 minutes per project total and 3-5 minutes for applicant statements) and for moving projects forward in an orderly fashion, avoiding extensive discussion about details that may not be relevant or have little significance.
  - j. The County will have someone present not associated with the projects to take notes of the proceedings. These notes shall highlight the issues discussed and document the decisions and/or recommendations made, including whether a follow-up batching meeting is necessary. Copies of these notes will be sent to each of the agencies within one week following the batching meeting. Each agency shall have 10 days to respond if either agency determines that the notes do not accurately reflect the results of the batching meeting. Not responding within 10 days shall indicate all parties are in agreement with the notes and these shall be used as official record of the meeting.
- 10) In order to comply with CEQA and to avoid excessive cost and time delays, the County strives to maintain a "no new issues" standard during the review of each project. In other words, County staff must identify all of the issues of concern at the earliest point in the review. Except in certain circumstances, such as the project changes or new information is submitted, County staff may not bring up issues that should have been identified previously. The County requests that the wildlife agencies recognize this policy and when possible, avoid introducing new issues after the initial decisions and/or recommendations on a project have been made and conveyed to the applicant. If a significant concern arises over an issue that could have been addressed previously, the agency with the concern should contact the County by phone as soon as possible to prevent further delays.
- 11) The wildlife agencies are encouraged to call County staff during any point in the processing of a project and/or submit comment letters during the

public and/or agency review period. When writing these letters, staff from the each agency should review the history of the project to ensure that their comments are not in conflict with previous decisions or recommendations made by their own agency. In addition, peripheral comments made in these letters, including those relating to additional state and federal permits that may be necessary for a given project, should be clearly distinguished from those specific conditions or concerns related to concurrence with the Habitat Loss Permit.

Signing below signifies agreement with the above protocol.

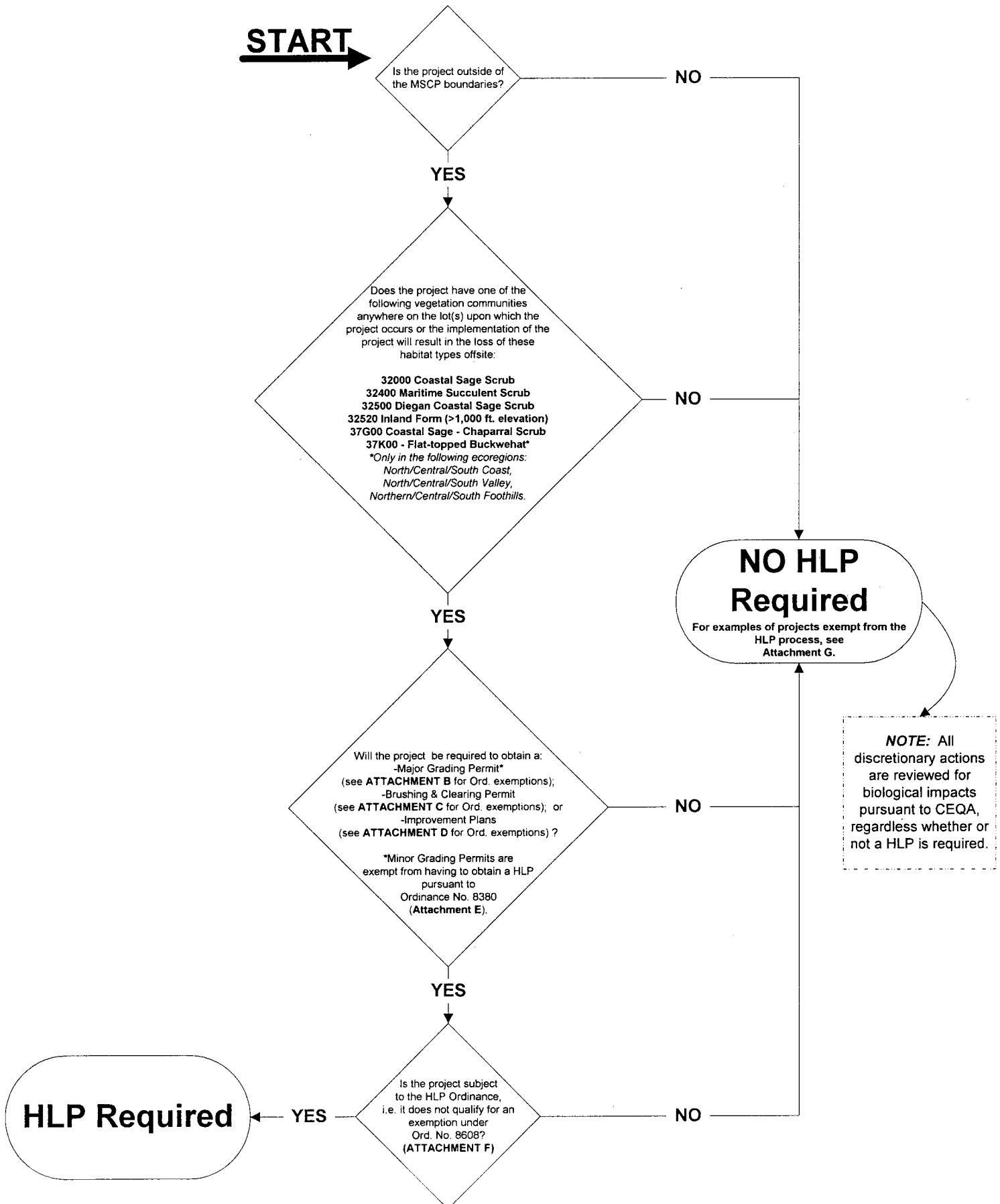
  
\_\_\_\_\_  
Gary Pryor, Director  
County of San Diego Department of Planning and Land Use  
6-13-02  
Date

  
\_\_\_\_\_  
James Bartel, Field Supervisor  
US Fish and Wildlife Service  
6-14-02  
Date

  
\_\_\_\_\_  
Gail Presley, HCP/NCCP Statewide Coordinator  
CA Department of Fish and Game  
6/13/02  
Date

# HABITAT LOSS PERMIT DECISION TREE

*Pursuant to Habitat Loss Permit Ordinance (Ordinance No. 8365-Attachment A)*





# ATTACHMENT A

ORDINANCE NO. 8365 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE TO ESTABLISH A PROCESS FOR ISSUANCE OF COASTAL SAGE SCRUB HABITAT LOSS PERMITS AND DECLARING THE URGENCY THEREOF TO TAKE EFFECT IMMEDIATELY

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and declares that:

- (a) In March, 1993 the Federal government listed the coastal California gnatcatcher as a threatened species under the Endangered Species Act of 1973 (16 U.S.C. §1531 et seq., hereinafter, the "Act"). The Act makes it a violation of federal law to carry out any activity which will result in a take of the species. "Take" of the gnatcatcher, broadly defined in the Act to include harm to or harassment of the species, is prohibited.
- (b) The U. S. Fish and Wildlife Service has promulgated a special rule under Section 4(d) of the Act, which will allow incidental take of the species if it results from activities which are conducted pursuant to either: (1) the State of California's Natural Community Conservation Planning Act of 1991 ("NCCP") and in accordance with an approved NCCP plan prepared consistent with the State's NCCP Conservation and Process Guidelines; or (2) (during the period that such an NCCP plan is being prepared), the NCCP Conservation Guidelines and Process Guidelines published by the California Department of Fish and Game, if within an area under the jurisdiction of a local government agency which is enrolled and actively engaged in the preparation of an NCCP plan. This special rule became effective on December 10, 1993.
- (c) The NCCP Conservation Guidelines and Process Guidelines call for the regulation of all coastal sage scrub within the region, and establish a planning process for the protection of this habitat. The Guidelines further provide a process for issuance of habitat loss permits which local government agencies may adopt. Because the County of San Diego has formally enrolled in the NCCP process and is actively engaged in the preparation of an NCCP plan for the protection of coastal sage scrub within the area under its jurisdiction, under the special rule promulgated under Section 4(d), incidental take of the gnatcatcher would not be a violation of the Act if authorized by a habitat loss permit issued by the County pursuant to the NCCP Conservation Guidelines and Process Guidelines.

- (d) Without such a habitat loss permit process under Section 4(d), no development of habitat occupied by the gnatcatcher may occur unless authorized under Sections 7 or 10(a) of the Act. Sections 7 and 10(a) set forth a permitting process which can take several years to complete. Failure to adopt a habitat loss permit process, thus requiring that proposed land development applications proceed under Section 7 and 10(a) processes, would halt all progress of development of occupied habitat in the region for a substantial time.
- (e) Sections 7 and 10(a) of the Act only regulate occupied coastal sage scrub habitat. The NCCP process contemplates protection of all coastal sage scrub habitat, which will result in protection of many species in addition to the coastal California gnatcatcher.
- (f) Regulation of impacts to coastal sage scrub within the County is necessary immediately because the Section 4(d) rule allows only 5% of all coastal sage scrub remaining in the region to be disturbed. Until the requirements of this ordinance are imposed, coastal sage scrub unoccupied by the gnatcatcher will continue to be disturbed, posing a serious threat to the viability of the NCCP plan and foreclosing the County's options in prioritizing projects for the public peace, health and safety. The preservation of the public peace, health and safety require that projects which impact coastal sage scrub be reviewed in terms of impacts to this regional resource, not individually.
- (g) Adoption of this ordinance is also necessary on an urgency basis to eliminate the need for and the delays and costs of procuring incidental take permits under Sections 7 or 10(a) of the Act on an individual project basis. The preservation of the public peace, health and safety require that development in the region proceed with a reasonable degree of certainty.

Section 2. Division 6 is hereby added to Title 8 of the San Diego County Code, to read as follows:

#### DIVISION 6 - MISCELLANEOUS LAND USE REGULATIONS

##### Chapter 1. Endangered Species

##### Section 86.101. Definitions.

For purposes of this chapter, the following words and phrases shall have the following meanings:

(a) Biological Assessment: A field survey which evaluates the quality of the habitat and assesses the presence or absence of the coastal California gnatcatcher, and which is performed in accordance with guidelines established by the U.S. Fish and Wildlife Service.

(b) Director: The Director of Planning and Land Use.

(c) Habitat Loss Permit: A permit issued by the Director authorizing the disturbance or removal of coastal sage scrub whether or not occupied by the California gnatcatcher.

(d) Mitigation Plan: A plan proposed by the applicant for a Habitat Loss Permit which will result in no net loss of coastal sage scrub habitat value as defined by the U. S. Fish and Wildlife Service and the California Department of Fish and Game and which is consistent with the NCCP Conservation Guidelines and Process Guidelines. The plan shall identify a funding source and shall provide a form of security acceptable to the Director to ensure that the plan will be accomplished.

(e) NCCP Conservation Guidelines and Process Guidelines: Those documents entitled "Southern California Coastal Sage Scrub Natural Community Conservation Planning Conservation Guidelines" and "Southern California Coastal Sage Scrub Natural Community Conservation Planning Process Guidelines," both dated November, 1993, which are on file with the Clerk of the Board of Supervisors as Document No. 758984. Said documents are referred to as the "State's NCCP Conservation and Process Guidelines" by the special rule promulgated by the U.S. Fish and Wildlife Service for the coastal California Gnatcatcher under Section 4(d) of the Endangered Species Act of 1973, published at Section 17.41(b) of Part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations.

#### Section 86.102. Permit Required.

Prior to approval or issuance of any of the following types of land development applications, the issuing authority shall determine whether any portion of the property subject to such permit contains the coastal sage scrub habitat type:

- a) Grading permit pursuant to either Section 87.202 or Section 87.210 of this Code;
- b) Improvement Plan submitted to the Director of Public Works in connection with any land development project; or
- c) Grading and Clearing Permit pursuant to Section 2(b) of Ordinance No. 7415 as amended.

If the property is determined to contain the coastal sage scrub habitat type, the land development permit or approval shall not

be issued unless a Habitat Loss Permit has first been issued by the Director. If the Director is the issuing authority for the land development permit or approval, the Habitat Loss Permit may be issued concurrently with the land development permit or approval.

#### Section 86.103. Voluntary Applicants.

Any governmental agency, public utility, or person who voluntarily determines to apply for a Habitat Loss Permit may submit an application for such a Permit.

#### Section 86.104. Procedures and Standards.

The Director shall follow the procedures and comply with the standards set forth in the NCCP Conservation Guidelines and Process Guidelines, in processing and determining whether to issue the Habitat Loss Permit. A biological assessment and mitigation plan shall be submitted as part of the application for a Habitat Loss Permit.

#### Section 86.105. Exemptions.

Notwithstanding Section 86.102, no Habitat Loss Permit shall be required for:

(a) Any project for which it is determined by the Board of Supervisors that application of this Ordinance would result in the applicant being deprived of all reasonable economic use of property without compensation, in violation of Federal or State Constitutional prohibitions.

b) Any project for which the Director makes a finding with the concurrence of the U.S. Fish and Wildlife Service that:

1. A final map was approved prior to March 2, 1994 and is listed on Schedule A, attached hereto; and

2. The property is not occupied by the coastal California gnatcatcher; and

3. Issuance of the permit referenced in Section 86.102 pursuant to the final or parcel map will not preclude the development of preserves in the future.

Section 3. Section 87.202.2 is hereby added to the San Diego County Code, to read as follows:

#### Section 87.202.2. Habitat Loss Permit.

No permit required by either Section 87.202 or Section 87.210 shall be issued, unless Section Chapter 1 of Division 6 of Title 8 of this Code has been complied with, regarding Habitat Loss Permits.

Section 4. This ordinance is adopted as an urgency measure necessary for the immediate preservation of the public peace, health and safety pursuant to Government Code Section 25123(d), and shall take effect immediately upon its adoption. The facts constituting such urgency are set forth in Section 1 of this ordinance, above.

Section 5. Publication. Before the expiration of fifteen (15) days after the date of adoption of this ordinance, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED this second day of March, 1994.

PAM SLATER  
Chairwoman of the Board of  
Supervisors of the County of San  
Diego, State of California

The above ordinance was adopted by the following vote:

Supervisor Brian P. Bilbray	voting "Aye"
Supervisor Dianne Jacob	voting "Aye"
Supervisor Pam Slater	voting "Aye"
Supervisor Leon L. Williams	being absent
Supervisor John MacDonald	voting "Aye"

ATTEST my hand and the seal of the Board of Supervisors this second day of March, 1994.



THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Dora Ceseña, Deputy

Ordinance No. 8365  
3/2/94 (3)

*Approved As To Form & Legality*  
COUNTY COUNCIL  
*R. William W. Taylor, Jr.*

SCHEDULE A

TENTATIVE MAP	NAME	DEVELOPER
2546-1	Borrego Springs Park Annex #2	Lubanko
2971-1	Groves of San Luis Rey Down	Urlick & Hollis
3564-2	Oak Creek Unit #3	National Pacific
3564-3	Oak Creek Unit #4	National Pacific
3618-1	Erin Vale	Armstrong & Mch
3623-1	Rancho Dehesa Unit 1 - 4	NU Pacific Co.
3649-1	Valle de Monserate	Rancho Monserate
3702-1	High Meadow Ranch Unit #1	Vicar Partners
3702-2	High Meadow Ranch Unit #2	Vicar Partners
3703-1	Rancho La Cuesta #1	Tustin Village Inc.
3703-2	Rancho La Cuesta #2	Tustin Village Inc.
3703-3	Rancho La Cuesta #3	Tustin Village Inc.
3719-1	South Fork Creek	Sandavol Const.
3725-3	Rancho Montclair Unit #3	Jon Head
3729-1	Sweetwater Knolls	Lakeview Custom
3734-2	Valle de Monserate #2	Rancho Monserate
3786-1	Valle de Monserate #3	Rancho Monserate
3832-0	Palo Verde Ranch West #10	Gibraltar Comm.
3832-6	Palo Verde Ranch West #6	Gibraltar Comm.
3832-7	Palo Verde Ranch West #7	Gibraltar Comm.
3832-8	Palo Verde Ranch West #8	Gibraltar Comm.
3832-9	Palo Verde Ranch West #9	Gibraltar Comm.
3909-1	Eucalyptus Meadows	
3982-1	Canyon Park Town Homes	
4016-1	Soldin Place	Flinn Springs
4050-1	Lakeside Acres	Villa Lakeshore
4062-1	Highland Oaks Unit #1	Skylakes Assoc.
4062-2	Highland Oaks Unit #2	Skylakes Assoc.
4159-1	Eagles Crest	Eagle Devel. Corp.

TENTATIVE MAP	NAME	DEVELOPER
4227-1	Rancho Cielo Estates #1	Pac. Cielo Devel.
4227-2	Rancho Cielo Estates #5	Pac. Cielo Devel.
4229-1	Rancho Cielo Estates #1	Pac. Cielo Devel.
4229-2	Rancho Cielo Estates #2	Pac. Cielo Devel.
4229-3	Rancho Cielo Estates #3	Pac. Cielo Devel.
4229-4	Rancho Cielo Estates #4	Pac. Cielo Devel.
4240-1	Gopher Canyon	Morris Co.
4249-2	Lake Rancho Viejo Unit #2	Anden Group
4249-3	Lake Rancho Viejo Unit #3	Blanche Pope
4292-1	Eucalyptus Hills Estates #2	R. F. Kevane
4348-1	Rancho Cielo Estates #3	Pac. Cielo Devel.
4351-1	Mimulus Road	Bunn
4394-2	Vahalla View Estates #2	Singing Hills Dev.
4394-3	Vahalla View Estates #3	Charles Grant
4449-1	East Victoria	Baskinta Enterprises
4459-1	Tierra Rojas Estates	Tierra Rojas Est.
4467-1	Rancho Capitan Homes	Rancho Capitan JT
4469-1	Dos Hermanitas	Tilaca U.S.A.
4470-1	Palm Canyon Estates #1	York Mort. Inv.
4478-1	4S Ranch	4S Ranch Co.
4489-3	Julian Estates Unit #3	Alabama Partner
4500-4	Casitas Unit #4	DiGiorgio Corp.
4501-1	Blossom Ridge	E. Nagler et al.
4515-1	Via Marbella	S.D. 1484 Ltd.
4553-1	Palo Verde Rancho West #12	Rancho Palo Verde
4569-1	Horizon C.C. Unit #1 and 2	Horizon Prop.
4569-3	Horizon C.C. Unit #3	Horizon Prop.
4569-4	Horizon C.C. Unit #4	
4607-1	Almond Hill	

TENTATIVE MAP	NAME	DEVELOPER
4613-1	Ram's Hill C.C. North #1	DiGiorgio Devel.
4613-2	Ram's Hill C.C. North #2	DiGiorgio Devel.
4617-1	Sam Lane	Najd
4618-1	Dewitt Estates	Tavern Road Ltd.
4626-1	Woodson Ranch Unit #1	Davidson Coscan
4626-2	Woodson Ranch Unit #2	Davidson Coscan
4626-3	Woodson Ranch Unit #3	Davidson Coscan
4651-1	Poco Lago	R. Hagey et al.
4653-1	Costa Lago	Niotta
4665-1	Emma	
4669-1	Vista Grande	
4696-1	Los Montanas	
4710-1	Chimney Rock	Duane Deverill
4719-1	Legacy	Wind
4722-1	Palimino Heights	Cirrus Dev. Group
4732-1	Lake Valley	W.R. Schmitt
4760-1	Rancho Farms	Rancho Farms Inves.
4761-1	Proctor Valley	
4768-1	Old Castle Way	Schafer
4780-1	Fruitvale Heights (Plum Ct)	Kensall
4781-1	San Pasqual Trail	Morrison Home
4798-1	Rancho Suenos	Rancho Suenos
4799-1	Rancho Highlands	Seve Catilina

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## **ATTACHMENT B**

### ***Grading Permits***

ORDINANCE NO. 9329(N.S.)

#### **AN ORDINANCE AMENDING THE GRADING ORDINANCE AND THE GRADING AND CLEARING ORDINANCE, RELATING TO AGRICULTURAL GRADING AND OTHER EXEMPTIONS**

Adopted by the Board of Supervisors on May 2, 2001

The Board of Supervisors of the County of San Diego ordains as follows:

#### **SEC. 87.201. GRADING PERMIT REQUIRED -- EXCEPTIONS.**

No person shall do any grading without first having obtained a grading permit from the Director of Public Works, except for the following:

- (a) **An excavation which is less than five feet (5') in vertical depth at its deepest point measured from the natural ground surface and which does not result in the movement of more than 200 cubic yards of material on any one site.**
- (b) **A fill which (1) is less than five feet (5') in vertical depth at its deepest point measured from the natural ground surface, (2) is placed on a surface having a slope not steeper than five horizontal to one vertical, (3) does not exceed 200 cubic yards of material on any one site, and (4) does not change the existing drainage pattern for an off-site area either above or below the grading site.**
- (c) **An excavation below finished grade for basements and footings of a building, retaining wall, swimming pool, septic tank, and leaching system, or other structure authorized by a valid building permit. This paragraph shall not exempt from the permit requirements any fill made with the material from such excavation having an unsupported height greater than five feet (5') after the completion of such structure.**
- (d) **Refuse disposal areas or sanitary fills operated and conducted in accordance with a special use permit issued pursuant to the Zoning Ordinance or a permit issued pursuant to Article 2, Chapter 5, Division 8, Title 6, of this Code or as a lawful non-conforming use and where the operation and conduct thereof does not block or divert any natural drainage way or affect the lateral support or unduly increase the stresses in or pressures upon any adjacent or contiguous property.**

- (e) **Grading upon property under the control of the United States of America, State of California, or the County of San Diego, when done by such government or agency, or when done by their contractor if the work is to be administered and inspected by an engineer employed by such government or agency.**
- (f) **Tilling or cultivating land exclusively for purposes of growing agricultural plants or animals, provided that:**
  - (1) all excavated material shall be placed on the same site;
  - (2) the tilling or cultivating will not block or divert any natural drainage way;
  - (3) the tilling or cultivating will not affect the lateral support or unduly increase the stresses in or pressures upon any adjacent or contiguous property; and
  - (4) the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years.

This exemption does not allow the establishment of new agricultural operations on, or the expansion of existing agricultural operations onto, any area which has not been in agricultural production for at least one of the preceding five years.

- (g) **Grading incidental to the construction or installation of undergrounding pipelines, conduits or similar underground facilities by public utility corporations, municipal corporations or special districts or their contractors.**
- (h) **Grading incidental to the construction or installation of drainage or flood control works pursuant to a Watercourse Permit issued by the Department of Public Works.**
- (i) **Grading or reclamation work pursuant to a special use permit or reclamation plan for a borrow pit, quarry or other surface mining operation approved by the Planning Commission or Board of Supervisors; provided, however, that a borrow pit which is to complete within one year from commencement, the removal of material to be used exclusively for fill at another approved site or sites shall be required to secure a grading permit for the excavation site as well as the fill sites.**

# **ATTACHMENT C**

## ***Brushing & Clearing Permits***

ORDINANCE NO. 9329(N.S.)

### **AN ORDINANCE AMENDING THE GRADING ORDINANCE AND THE GRADING AND CLEARING ORDINANCE, RELATING TO AGRICULTURAL GRADING AND OTHER EXEMPTIONS**

Adopted by the Board of Supervisors on May 2, 2001

The Board of Supervisors of the County of San Diego ordains as follows:

**Grading and Clearing Ordinance Revisions** Ordinance No. 7415, as amended by Ordinances Nos. 7460, and 8847, is further amended as follows:

- (j) The following activities are exempt from the provisions of this Ordinance, **if they occur on land located outside the boundaries of the Multiple Species Conservation Program Subarea Plan**, as shown on the map attached as Attachment A to the Biological Mitigation Ordinance (Ordinance No. 8845 (N.S.):
- (1) **PARCELS ZONED FOR SINGLE-FAMILY RESIDENTIAL USE AND IMPROVED WITH A SINGLE-FAMILY RESIDENCE:** Clearing of up to a maximum of five acres, on a parcel zoned for single-family residential use and improved with a single-family residence. The amount of land cleared under this exemption shall not exceed a total of five acres, regardless of the number of occasions on which clearing is performed.
  - (2) **ROUTINE LANDSCAPING:** Routine landscaping, maintenance, and the removal of dead or diseased trees or shrubs.
  - (3) **FIRE PROTECTION:** Clearing for fire protection purposes within 100 feet of a dwelling unit. Any additional clearing for fire prevention, control or suppression purposes is exempt when authorized or required, in writing, by a fire prevention or suppression agency.
  - (4) **SURVEYING, GEOTECHNICAL EXPLORATION AND ACCESS FOR PERCOLATION TESTS AND WELLS:** Limited clearing as necessary for the purpose of surveying, geotechnical exploration and access for percolation tests and wells. This exemption does not include clearing for building pads or leach fields.
  - (5) **INCIDENTAL TO REPAIR, ALTERATION OR CONSTRUCTION OF STRUCTURES PURSUANT TO AN APPROVED BUILDING PERMIT WHICH DOES NOT REQUIRE A GRADING PERMIT:** Clearing, and minor grading which does not require a grading permit, either of which are incidental to the repair,

alteration or construction of a single-family dwelling and accessory buildings and structures pursuant to an approved building permit.

- (6) **CLEARING CONFORMS TO AN APPROVED PLOT PLAN PURSUANT TO A DISCRETIONARY LAND USE PERMIT OR DISCRETIONARY DEVELOPMENT PERMIT WHICH DOES NOT REQUIRE A GRADING PERMIT:** Clearing, and minor grading which does not require a grading permit, either of which conform to the location, extent and purpose authorized, explicitly or implicitly, by an approved plot plan pursuant to a discretionary land use permit or a discretionary development permit.
- (7) **CLEARING INCIDENTAL ACTIVITIES WHICH ARE EXEMPT FROM A GRADING PERMIT:** Clearing incidental to grading activities which are exempt from a grading permit requirement pursuant to County Code of Regulatory Ordinances Sections 87.201 (c), (d), (e), (g), (h), and (i).
- (8) **AGRICULTURAL CLEARING:** Tilling or cultivating land exclusively for purposes of growing agricultural plants or animals, provided that the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years. This exemption does not allow the establishment of new agricultural operations on, or the expansion of existing agricultural operations onto, any area which has not been in agricultural production for at least one of the preceding five years.

## **ATTACHMENT D**

### ***Improvement Plans***

Generally, Improvement Plans are required for all discretionary projects (i.e. Major/Minor Subdivisions, Major/Minor Use Permits, Grading Permits, Rezones, Site Plans, Specific Plans) which, in order to satisfy their Conditions of Approval, must complete improvements such as street work and utilities including street lights and walkways to be installed or agreed to be installed by the applicant on land to be used for public or private streets, highways, ways, and easements as are necessary for the general use of the drainage, flood control, fire protection and sanitation needs.

These requirements are outlined in Sections 81.403 and 81.706 of the County of San Diego Subdivision Ordinance (below) as well as for projects requiring a Rezone (Policy I-17, attached) and Use Permits (Policy I-18, attached).

#### **County of San Diego Subdivision Ordinance:**

#### **SEC. 81.403. REQUIRED IMPROVEMENTS. [MAJOR SUBDIVISION]**

(a) The subdivider shall be required to perform or agree to perform the following before approval of any final or parcel map of a major subdivision:

- (1) Grade and improve all land dedicated or to be dedicated for roads or easements, bicycle routes, and all private roads and private easements laid out on a final map or parcel map, in such manner and with such improvements as are necessary for the use of the lot owners in the subdivision, local neighborhood traffic, and drainage needs in accordance with County Standards.
- (2) Install all on-site and off-site drainage and flood control facilities required by the Director of Public Works in conformance with County Standards. When, it is determined that construction of off-site facilities to the ultimate County Standards is unreasonable, staged construction may be permitted when the Board of Supervisors has determined there is a substantial public benefit, and:
  - (i) Drainage and flood control facilities required pursuant to this ordinance, which are outside the boundaries of the subdivision, may be constructed in stages in conformance with County Standards and shall provide for no increase in existing or potential flood hazards to downstream properties. Staged facilities shall provide for increases in flood flows attributable to a proposed development, and the cumulative effect of future developments in the watershed pursuant to current County policy regarding staged construction.
  - (ii) Design of staged facilities shall include provisions for minimum maintenance requirements including, but not limited to, vehicular access, erosion and sedimentation control, structural low flow

channels, and service roads, plus landscaping and irrigation where appropriate.

- (3) Provide proof satisfactory to the Director of Planning and Land Use that the serving water district has certified that adequate potable public water supply is available to each lot or parcel or to the Director of the Department of Environmental Health that there exists an adequate potable well water supply available to each lot or parcel. The subdivider shall install minimum water supply pipe as determined by the Director of Public Works and recommended by the water district serving the proposed subdivision.
  - (4) Install fire hydrants and connections as approved by the chief of the local fire district or the County Fire Marshal.
  - (5) Install a public system for sewers or sewage disposal serving all proposed lots or parcels as a condition precedent to the approval of any parcel map or final map where it is determined that such system is required to preserve the public health due to the size and shape of the proposed lots, the terrain and soil condition of the land to be subdivided, and the existing development in the vicinity of the proposed subdivision. Such public system shall be approved by the serving district according to their standards and policies.
  - (6) Underground all new and existing utility distribution facilities, including cable television lines, within the boundaries of any new subdivision or within any half road abutting a new subdivision. The subdivider is responsible for complying with the requirements of this Subsection and he shall make the necessary arrangements with each of the serving utilities, including licensed cable television operators for the installation of such facilities. Transformers, terminal boxes, meter cabinets, pedestals, concealed ducts, and other facilities necessarily appurtenant to such underground utilities and street lighting systems may be placed above ground. The provisions of this Subsection shall not apply to the installation and maintenance of overhead electric transmission lines in excess of 34,500 volts and long distance and trunk communication facilities. When the installation of cable television lines is required, the subdivider shall provide the Director of Public Works with either documentation from a licensed cable television operator stating arrangements for the underground installation of cable television lines have been made; or documentation that the Cable Television Review Commission has reported that no licensed cable television operator is willing and able to install cable television lines in the subdivision. Any modification or waiver of the requirements of this Subsection shall be reviewed in accordance with the Board of Supervisors Policy "Undergrounding of Utilities."
  - (7) Construct a street lighting system as required by the Director of Public Works in conformance with County Standards.
- (b) Where each parcel on a parcel map for a major subdivision contains a gross area of 20 acres or more, the subdivider shall be required to:

- (1) Grade and improve private roads to grades and widths required in accordance with County Standards for Private Roads;
- (2) Install all drainage structures and facilities required by the Director of Public Works in conformance with County Standards; and
- (3) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Environmental Review Board, Planning Commission or Board of Supervisors.

(c) All drainage and flood control improvements shall conform to applicable floodplain overlay zoning and drainage and flood control policies of the County General Plan.

(Amended by Ord. No. 4931 (N.S.), effective 7-7-77; amended by Ord. No. 4992 (N.S.), effective 11-10-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5736 (N.S.), effective 5-29-80; amended by Ord. No. 5890 (N.S.), effective 10-30-80; amended by Ord. No. 5949 (N.S.), effective 1-8-81; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6256 (N.S.), effective 4-15-82; amended by Ord. No. 6276 (N.S.), effective 5-27-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9063 (N.S.), effective 8-13-99)

### **County of San Diego Subdivision Ordinance:**

#### **SEC. 81.706. REQUIRED IMPROVEMENTS. [MINOR SUBDIVISIONS]**

As a condition precedent to the approval of a parcel map for a minor subdivision filed pursuant to the Subdivision Map Act and this division it shall be required that the subdivider:

- (a) Improve or agree to improve in accordance with San Diego County Standards all right-of-way offered for dedication for road purposes which is accepted by the County prior to the approval of the parcel map.
- (b) Install or agree to install other improvements and facilities including but not limited to sewer, water, fire protection, schools and flood control services, in accordance with the requirements set forth in Section **81.403** of this division except that:
  - (1) fire hydrants shall be installed as provided in subsection (c) of this section;
  - (2) street lighting shall be required as provided in subsection (f) of this section; and
  - (4) conversion of existing overhead utilities to underground utilities shall not be required where no public road improvements are required; however, new service to on-site buildings shall be installed underground.
- (c) Install or agree to install fire hydrants with an adequate water supply at intervals not to exceed the following distances for the size of parcel created in the designated zone, which distance shall be measured along a road which is traversable by mechanized fire

fighting apparatus, provided these requirements may be waived or modified by the Director pursuant to Section 81.614 of this division, upon recommendation by the chief of the local fire district, or if there is no local fire district, by the Director of Planning and Land Use.

- (1) In zones other than industrial, commercial and multi-family, fire hydrants shall be installed at the following intervals:
  - (i) Parcels 2-1/2 acres and larger--every 1,000 feet.
  - (ii) Parcels 1/2 to 2-1/2 acres--every 500 feet.
  - (iii) Parcels less than 1/2 acre--every 350 feet.
- (2) In multi-family zones, and in commercial and industrial zones fire hydrants shall be installed every 300 feet regardless of parcel size.  
 In commercial and industrial zones, fire hydrants shall have two 2-1/2 inch ports and one 4-inch port with a six inch barrel, and in all other zones fire hydrants shall have one 2-1/2 inch port and one 4-inch port.
- (d) Provide proof that the serving public water district will serve each lot or parcel with potable public water or the Director of the Department of Environmental Health certifies that there exists an adequate potable well water supply available to each lot or parcel.
- (e) Provide proof satisfactory to the Director of Public Works that there exists an adequate water supply available to each required fire hydrant.
- (f) Install or agree to install street lighting pursuant to San Diego County Standards, provided that such street lighting shall only be required for traffic safety as determined by the Director of Public Works.
- (g) Provide proof that the serving public sewer district will serve each lot or parcel with public sewer.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5758 (N.S.), effective 6-12-80; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 6710 (N.S.), effective 2-3-84; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8690 (N.S.), effective 7-5-96; amended by Ord. No. 9063 (N.S.), effective 8-13-99)



## ATTACHMENT D



# CLERK OF THE BOARD

COUNTY OF SAN DIEGO WEB SITE

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## I-17

### Right-of-Way Dedication and Public Improvement Requirements in Connection With Zone Reclassifications

#### Purpose

To establish a policy that prior to reclassification of property pursuant to The Zoning Ordinance, the applicant for such reclassification shall be required to provide those public improvements and facilities, and the lands, easements, and right-of-way therefore, necessary to make such property suitable for use in the proposed zoning classification. To supplement and modify the existing policy as stated in Part IV of San Diego County Road Policy adopted by the Board of Supervisors on March 20, 1962, and extend the principles stated therein to include all public improvements.

#### Background

In the past, when an owner has applied for reclassification (rezoning) of his/her property, the County has merely required, as a prerequisite to reclassification, that necessary rights-of-way for widening or establishing County highways be dedicated. This practice did not make provision for improvement of the right-of-way, for the dedication of easements for or construction of facilities for drainage, disposal of sewage or fire protection. As a consequence, property was frequently reclassified to permit a more intensive use or different uses without any assurance that the rights-of-way and public improvements and facilities needed for such use would be provided.

#### Policy

It is the policy of the Board of Supervisors that:

Where application is made pursuant to the Zoning Ordinance for reclassification of property and it is found that road improvements, drainage, sewage, fire protection, or other public facilities and improvements (including the land, easements and rights-of-way therefore), are necessary to the health, safety and general welfare of the public and to make the property suitable for the increased intensity of use or the different uses permitted by the proposed zone classification, such improvements and facilities (including the land, easements and rights-of-way therefore) shall be required or provisions made therefore before property is reclassified.

When, after hearing on an application for a zone reclassification pursuant to the Zoning Ordinance, it is

determined that the increased intensity of use or different uses permitted by the requested zone reclassification would be appropriate except for the fact that necessary public rights-of-way, improvements or facilities either do not exist or are below San Diego County standards, the applicant shall be given the opportunity to provide the required improvements and facilities (including land, easements and rights-of-way) by one of the procedures listed below. In any such case where the Planning Commission recommends the reclassification, the Planning Commission should also recommend one of the following procedures which in its opinion is best suited to carry out this policy:

#### 1. Filing of a Final Subdivision Map

The ordinance reclassifying the property will provide that it shall take effect only if within two years from the date of its adoption a final subdivision map of the property is filed pursuant to the San Diego County Subdivision Ordinance.

#### 2. Entering into a Secured Agreement with the County

Prior to the adoption of the ordinance reclassifying the property, the owner shall:

- a. Dedicate or irrevocably offer for dedication the required land, easements, and rights-of-way; and
- b. Enter into an agreement to provide the required improvements and facilities, which agreement shall be secured by a security in a form satisfactory to County Counsel.

#### 3. Executing a Lien Agreement

Prior to the adoption of the ordinance reclassifying the property, the owner shall:

- a. Dedicate or irrevocably offer for dedication the required land, easements and rights-of-way; and
- b. Execute a lien agreement by which an owner(s) for his/her successors and assigns, that in lieu of making the ultimate improvements, that he/she will install, construct or cause to be installed or constructed the required ultimate improvements at a future time satisfactory to the County.

#### 4. Executing a Covenant

Prior to the adoption of the ordinance reclassifying the property, the owner shall:

- a. Dedicate or irrevocably offer for dedication the required land, easements and rights-of-way; and
- b. Execute a covenant by which he/she covenants for himself/herself, his/her successors and assigns, not to oppose the initiation by the County of special assessment (improvement act) proceedings for the construction of the necessary improvements and facilities.

#### Procedures Pursuant to Board of Supervisors Policy No. I-17

The following procedures shall be utilized in implementation of this Policy.

#### PREAPPLICATION PROCEDURES

A. Wherever possible prior to filing of an application, the Department of Planning and Land use shall

offer each prospective applicant for a zone reclassification a form statement explaining the reclassification process. Said statement will include an explanation of the possible responsibility of the applicant for provision of necessary public rights-of-way and improvements pursuant to this Policy.

B. When an application for zone reclassification is proposed to be filed and it appears to the Department of Planning and Land Use that the subject property cannot be properly developed for uses permitted under the proposed zone classification unless the land is further divided into lots or unless public roads and other improvements are provided, the Department of Planning and Land Use shall encourage the applicant to file a tentative subdivision map for concurrent consideration with the application for reclassification.

## PROCEDURE FOR PROCESSING APPLICATIONS

A. After acceptance of an application, the Department of Planning and Land Use shall promptly transmit a copy of the application, along with an Assessor's Parcel Map showing the subject property, to the County Department of Public Works. The Department of Planning and Land Use shall then process the application in the usual manner.

B. Upon receipt of the transmittal from the Department of Planning and Land Use, the Department of Public Works shall investigate the need for road right-of-way and road improvements and shall identify such needs in sufficient detail that it is clear what the extent of the applicant's responsibility may be in the provision of such right-of-way and improvements.

C. Upon receipt of the transmittal from the Department of Planning and Land Use, the Department of Public Works shall make its investigation relative to:

1. Drainage and flood control matters, and

2. Provision of sewer when area under consideration is within a County Sanitation District.

Needs relative to these matters shall be identified in sufficient detail that it is clear what the extent of the applicant's responsibility may be in provision for drainage and flood control facilities and sewer services.

D. If the subject property is determined to be located in a water or sewer district not under the jurisdiction of the County, it shall be the applicant's responsibility to file with the Department of Planning and Land Use prior to the Planning Commission hearing, a statement from the appropriate district or districts that necessary services can be provided.

E. Prior to the Planning Commission hearing, representatives of the Department of Planning and Land Use, and the Department of Public Works shall review and discuss the results of their respective investigations and formulate recommendations to the Planning Commission relative to matters of right-of-way and public improvements in connection with reclassification applications.

At the discretion of the Director of Public Works, the recommendation for the needed public improvements submitted to the appropriate approval body could allow for the construction of all or a portion of the improvements to be deferred to a later time. The construction of such improvements would have to be secured by the execution of a lien contract agreement or other appropriate security.

Drafting of the staff report of recommendations to the Planning Commission shall be the responsibility

of the Department of Planning and Land Use.

## PLANNING COMMISSION HEARING AND ACTION

A. At its hearing the Planning Commission shall consider the recommendations of the staff and any testimony offered relative to public rights-of-way and improvement needs.

B. When the Planning Commission determines that a proposed reclassification would be appropriate except for the fact that necessary public rights-of-way and/or improvements either do not exist or are below San Diego County standards, the applicant shall be given the opportunity to provide for such public rights-of-way and/or improvements. To this end, the Commission shall recommend to the Board of Supervisors that the application for reclassification be approved according to an appropriate method of providing for necessary rights-of-way and/or improvements as set forth in this Policy.

C. When the Planning Commission recommends the preparation of right-of-way documents, a secured agreement, lien or a covenant separate from the filing of a final subdivision map, the applicant shall have accomplished one of the following as recommended by the Planning Commission before the Department of Public Works will docket the reclassification for the Board of Supervisors consideration:

1. Dedicated or irrevocably offered for dedication the necessary rights-of-way and entered into a secured agreement providing for required improvements, or

2. Dedicated or irrevocably offered for dedication the necessary rights-of-way and entered into a lien agreement providing for the required improvements, or

3. Dedicated or irrevocably offered for dedication the necessary rights-of-way and entered into a covenant not to oppose future assessment proceedings for required improvements.

D. When the Planning Commission does not recommend the filing of a final subdivision map, but recommends the preparation of right-of-way documents, a secured agreement, lien or a covenant, it shall be the responsibility of the Department of Planning and Land Use to prepare the Commission's Report to the Board of Supervisors along with the draft ordinance and forward the package to the Department of Public Works. The Department of Public Works will hold the Report until all required documents are satisfactorily executed.

E. Upon notification by the Department of Planning and Land Use that a method other than the filing of a final map is recommended, it shall be the responsibility of the Department of Public Works and the Department of General Services to assist the applicant to prepare and obtain execution of necessary documents for dedications and agreements prior to the consideration by the Board of Supervisors. It shall be the responsibility of the applicant to provide said Departments with the title report or lotbook report, legal description and plat adequate to facilitate the preparation of such documents and to properly execute the documents when furnished and to return them promptly to the Department of Public Works. Every effort shall be made by the Departments to coordinate such efforts when appropriate and to consolidate their requirements into as few documents as possible. All legal documents shall be reviewed by County Counsel.

F. It shall be the responsibility of the Department of Planning and Land Use to provide overall coordination and to prepare the Planning Commission's recommendation for advertising and docketing. It shall be the responsibility of the Department of Public Works to assure that all necessary right-of-way, agreement, lien and covenant documents have been prepared and properly executed before the rezone

case is docketed with the Clerk of the Board. The Board of Supervisors' response and all documents shall be forwarded to the Clerk of the Board as soon as complete documents for each hearing are ready.

General Plan Amendment/Rezone case documents in final form must be delivered to the Department of Public Works a minimum of 5 working days prior to the scheduled initial Board of Supervisors' hearing on the rezone

#### APPEAL FROM PLANNING COMMISSION DENIAL

Should the Planning Commission deny a reclassification, and if the applicant appeals that decision, as required by Section 7506(d) of The Zoning Ordinance, the Department of Planning and Land Use will be responsible for preparing the Planning Commission Report and for docketing the case for hearing with the Clerk of the Board. The applicant will not be required to complete the recommended conditions prior to the Board hearing.

If during the Board hearing, the Board takes tentative action to approve the reclassification, the case will be continued to allow sufficient time for the applicant to complete any Board imposed conditions, prior to the final approval of the reclassification.

#### BOARD OF SUPERVISORS HEARING AND ACTION

At its hearing the Board of Supervisors shall consider the recommendation of the Planning Commission, the presentation of the Department of Planning and Land Use and any testimony offered relative to public right-of-way and improvement needs and may accept, reject or modify the recommendation of the Commission.

When the Board of Supervisors determines that a proposed reclassification would be appropriate, except for the fact that necessary public rights-of-way and/or improvements either do not exist or are below San Diego County standards, the applicant shall be given the opportunity to provide for such public rights-of-way and/or improvements under one of the following actions pursuant to this Policy. The Board, under these circumstances, shall take one of the following actions:

1. Adopt an ordinance reclassifying the property, said reclassification to become effective if within two years a final subdivision map of the subject property which makes provision for needed public rights-of-way and/or improvements is filed with the County Recorder.
2. Continue the Board hearing within the limits set by State law for execution of all necessary documents.

#### POST HEARING PROCEDURE

##### A. Provisional Reclassifications:

When the Board of Supervisors has adopted an ordinance approving a reclassification to become effective upon filing with the County Recorder of a final subdivision map of the subject property, the Department of Planning and Land Use shall cause one copy of such ordinance to be made part of the tentative map file at the time the applicant submits such tentative map of subject property for approval. Therefore, such tentative map and each revision thereof shall carry a record of the number of the ordinance reclassifying said property and all actions relative to such subdivision map shall take cognizance of the relationship of such subdivision map to said ordinance. When the final subdivision

map is transmitted by the Department of Public Works to the Board of Supervisors for approval, the letter of transmittal shall indicate the relationship of such final map to the reclassification ordinance.

After the Board approval, the final subdivision map is filed with the County Recorder. Upon filing, the reclassification becomes effective and the provisional status of the zoning no longer exists. The Board's approval action will also include direction to the Department of Public Works to delete the provisional classification affixed to the official zoning map immediately after map recordation.

#### B.Reclassifications Not Involving Final Maps

When the Board of Supervisors has approved the reclassification pursuant to the executed right-of-way documents, agreement, lien or covenant conditions having been complied with, those documents shall be accepted and recorded by the Clerk of the Board. The reclassification will become effective in the time specified in the County Code.

#### Sunset Date

This policy will be reviewed for continuance by 12-31-02.

#### Board Action

8-18-69(1)

10-14-69(79)

11-10-69(86)

11-5-75(3)

5-22-79(150)

7-26-88(43)

12-12-89(49)

3-27-90(47)

5-15-96 (5)

#### CAO Reference

1. Department of Planning and Land Use
2. Department of Public Works
3. Department of General Services

<b>Chief Admin Office</b>	<b>Financial/ General Govt</b>	<b>Community Services</b>	<b>Health &amp; Human Services</b>	<b>Land Use &amp; Environment</b>
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## I-18

### Right-of-Way Dedication and Public Improvement Requirements in Connection with Major and Minor Use Permits

#### Purpose

To establish a policy that when a use permit is granted pursuant to the Zoning Ordinance, the permittee shall be required to provide those public improvements and facilities, and the lands, easements and rights-of-way therefore, necessary to assure that the special use will not be materially detrimental to the public health, safety or welfare or the property or improvements in the vicinity and zone in which the subject property is located.

To supplement and modify the existing policy as stated in Part IV of San Diego County Road Policy adopted by the Board of Supervisors on March 20, 1962, and extend the principles stated therein to include all public improvements.

#### Background

Certain types of land use are permitted only pursuant to a major use permit approved by the Planning and Environmental Review Board (PERB), the Planning Commission, or the Board of Supervisors or a Minor Use Permit approved by the Director, or Board of Planning and Zoning Appeals. Issuance of such permits may have the effect of authorizing a more intensive or special use of the property which creates a need for public improvements such as roads and drainage, sewage and fire protection facilities. In such a case, it is necessary that provision be made for such facilities to make the property suitable for the proposed more intensive or special use.

#### Policy

It is the policy of the Board of Supervisors that:

Where application is made pursuant to the Zoning Ordinance for a major or minor use permit and it is found that road improvements, drainage, sewage, fire protection or other public facilities and improvements (including the land, easements and rights-of-way therefore) are necessary to insure that the establishment or maintenance of the requested use will not be materially detrimental to the public health, safety or welfare or to the property or improvements in the vicinity and zone in which the subject property is located such use permit shall be issued only upon conditions that provision be made for such



improvements and facilities (including the land, easements and rights-of-way therefore).

When, after the hearing on an application for a major or minor use permit pursuant to the Zoning Ordinance, it is determined that the establishment or maintenance of the requested use would be detrimental to the public health, safety or welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located because necessary public rights-of-way, improvements or facilities either do not exist or are below San Diego County standards, the Planning and Environmental Review Board, Director, the Planning Commission, Board of Planning and Zoning Appeals or Board of Supervisors shall not grant the permit without requiring that the necessary improvements and facilities (including land, easements and rights-of-way).

At the discretion of the Director of Public Works, the recommendation for the needed public improvements submitted to the appropriate approval body could allow for the construction of all or a portion of the improvements to be deferred to a later time. The construction of such improvements would have to be secured by the execution of a lien contract agreement or other appropriate security. An irrevocable offer of dedication of the necessary rights-of-way shall be made concurrent with the execution of security for deferred improvements. Improvements and facilities shall be provided by one of the following procedures:

#### 1. Construction of Improvements Prior to Use and Occupancy or Other Appropriate Date or Event

The major or minor use permit shall be granted upon condition that the required land, easements and rights-of-way be dedicated to the County and construction of the required improvements and facilities prior to the date of use and occupancy of the premises pursuant to such use permit or prior to such other appropriate date or event as may be designated by the Planning and Environmental Review Board, Zoning Administrator, the Planning Commission, Board of Planning and Zoning Appeals, or Board of Supervisors.

#### 2. Entering Into a Secured Agreement with the County

The major or minor use permit shall be granted upon condition that prior to a specific date or event (such as a calendar date, the date of issuance of a building permit or other permit pursuant to the use permit, or the date of final inspection and approval of improvements constructed pursuant to such building permit or other permit) the owner shall:

- a. Dedicate or irrevocably offer the dedication of the required land, easements, and rights-of-way; and
- b. Enter into an agreement to provide the required improvements and facilities, which agreement shall be secured by a form of security approved by the County Counsel.

#### 3. Executing a Lien Agreement

The major or minor use permit shall be granted upon condition that prior to a specific date or event (such as a calendar date, the date of issuance of a building permit or other permit pursuant to the use permit, or the date of final inspection and approval of improvements constructed pursuant to such building permit or other permit) the owner shall:

- a. Dedicate or irrevocably offer for dedication the required land, easements and rights-of-way; and
- b. Execute a lien agreement by which an owner agrees for himself/herself, his/her successors and assigns.

that in lieu of making the ultimate improvements required by the permit, that he/she will install, construct or cause to be installed or constructed the required ultimate improvements at a time satisfactory to the County.

#### 4.Executing a Covenant

The major or minor use permit shall be granted upon condition that prior to a specific date or events (such as a calendar date, the date of issuance of a building permit or other permit pursuant to the use permit, or the date of final inspection and approval of improvements constructed pursuant to such building permit or other permit) the owner shall:

a.Dedicate or irrevocably offer for dedication the required land, easements and rights-of-way; and

b.Execute a covenant by which an owner covenants for himself/herself, his/her successors and assigns, not to oppose the initiation by the County of special assessment (improvement act) proceedings for the construction of the necessary improvements and facilities.

#### Sunset Date

This policy will be reviewed for continuance by 12-31-02.

#### Board Action

10-14-69 (80)

3-25-80 ( 7)

12-15-82 (37) operative 3-1-83

12-11-84 ( 7)

3-27-90 (47)

5-15-96 (5)

#### CAO Reference

1.Department of Planning and Land Use

2.Department of Public Works

<b>Chief Admin Office</b>	<b>Financial/ General Govt</b>	<b>Community Services</b>	<b>Health &amp; Human Services</b>	<b>Land Use &amp; Environment</b>
<b>Public Safety</b>	<b>San Diego County</b>	<b>Table Of Contents</b>	<b>Search</b>	<b>Help</b>

[webmaster@co.san-diego.ca.us](mailto:webmaster@co.san-diego.ca.us)

## **ATTACHMENT E**

### ***Minor Grading Permits***

**Minor Grading Permits are exempt from having to obtain a HLP** pursuant to Ordinance No. 8380 (Attached). This includes grading activities where the total cut and fill is greater than 200 cubic yards and less than 3000 cubic yards, or the cut or fill exceeds 5 feet but is less than 25 feet in vertical depth at its deepest point measured from the natural ground surface. Minor Grading Permits are issued for the development of one-single family dwelling unit and accessory structures (excluding mobilehomes) on a single parcel.

**County of San Diego Grading Ordinance:**  
**SEC. 87.210. MINOR GRADING PERMIT ISSUED BY THE**  
**DEPARTMENT OF PLANNING AND LAND USE.**

(a) Where the proposed grading does not exceed 3,000 cubic yards, is upon a single lot or parcel of land, is incidental to the construction of a one-family dwelling and accessory buildings and structures excluding mobilehomes parks, and will not necessitate the construction of any extensive drainage structures or facilities or interfere with any drainage course, the Director of Planning and Land Use may accept the application for and grant a grading permit for such grading in accordance with this division.

(b) The Director of Planning and Land Use shall perform all of the duties imposed upon and exercise all of the authority granted to the Director of Public Works in connection with such application and permit and any grading performed pursuant to such permit.

(c) The Director of Planning and Land Use for any reason he deems appropriate may decline to accept an application or issue a permit pursuant to this section. In such case, the application for the grading permit shall be made to the Director of Public Works provided, however, no payment of duplicate fees shall be required.

(Repealed by Ord. No. 3281 (N.S.), effective 1-22-69; added by Ord. No. 3792 (N.S.), effective 12-17-71; amended by Ord. No. 4717 (N.S.), effective 7-8-76; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8553 (N.S.), effective 8-10-95, operative 8-10-95; amended by Ord. No. 8962 (N.S.), effective 9-23-98)

# ATTACHMENT E

ORDINANCE NO. 8380 (NEW SERIES)

## AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE TO EXEMPT MINOR GRADING PERMITS FROM THE COASTAL SAGE SCRUB HABITAT LOSS PERMIT PROCESS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Section 86.102 of the San Diego County Code is hereby amended to read as follows:

Section 86.102. Permit Required.

Prior to approval or issuance of any of the following types of land development applications, the issuing authority shall determine whether any portion of the property subject to such permit contains the Coastal sage scrub habitat type:

- a) Grading permit pursuant to Section 87.202 of this Code;
- b) Improvement Plan submitted to the Director of Public Works in connection with any land development project; or
- c) Grading and Clearing Permit pursuant to Section 2(b) of Ordinance No. 7415 as amended.

If the property is determined to contain the Coastal sage scrub habitat type, the land development permit or approval shall not be issued unless a Habitat Loss Permit has first been issued by the Director. If the Director is the issuing authority for the land development permit or approval, the Habitat Loss Permit may be issued concurrently with the land development permit or approval.

Section 2. Section 87.202 of the San Diego County Code is hereby amended to read as follows:

Section 87.202.2. Habitat Loss Permit.

No permit required by Section 87.202 shall be issued, unless Section Chapter 1 of Division 6 of Title 8 of this Code has been complied with, regarding Habitat Loss Permits.

Section 3. Effective Date. This ordinance shall take effect thirty (30) days after its adoption. Within fifteen (15) days after the date of adoption of this ordinance, a summary shall be published once with the names of the supervisors voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED this 30th day of March, 1994.

PAM SLATER, Chairwoman  
County of San Diego Board of Supervisors

The above ordinance was adopted by the following vote:

AYES: Bilbray, Jacob, Slater, Williams, MacDonald

- - -

ATTEST my hand and the seal of the Board of Supervisors this 27th day of April, 1994.



THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By A. Gomez  
Adair Gomez, Deputy

## ATTACHMENT F

ORDINANCE NO. 8608 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE  
TO EXEMPT CERTAIN PROJECTS FROM THE COASTAL SAGE SCRUB  
HABITAT LOSS PERMIT PROCESS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 2. Section 86.105 of the San Diego County Code is hereby amended to read as follows:

Section 86.105. Exemptions.

Notwithstanding Section 86.102, no Habitat Loss Permit shall be required for:

(a) Any project for which it is determined by the Board of Supervisors that application of this Ordinance would result in the applicant being deprived of all reasonable economic use of property without compensation, in violation of Federal or State Constitutional prohibitions.

(b) Any project for which the Director makes a finding with the concurrence of the U.S. Fish and Wildlife Service that:

1. A final map was approved prior to March 2, 1994 and is listed on Schedule A, attached hereto; and
2. The property is not occupied by the Coastal California gnatcatcher; and
3. Issuance of the permit referenced in Section 86.102 pursuant to the final or parcel map will not preclude the development of preserves in the future.

(c) Any project which has received a permit pursuant to 16 U.S.C. Sections 1536 or 1539, as amended.

11/15/95 (2)

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNCIL

BY Claudia F. Aguiar  
CLERK

Section 2. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, it shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED and ADOPTED this 15th day of November 1995.

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DIANNE JACOB  
Chairwoman of the Board of  
Supervisors of the County of San  
Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater  
Absent: Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this  
15th day of November, 1995.



THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By L. Monteleone  
Lorena Monteleone, Deputy

Ordinance No. 8608 (New Series)  
11/15/95 (2)

## **ATTACHMENT G**

### **EXAMPLES OF PROJECTS EXEMPT FROM THE HLP PROCESS**

Following are examples of projects Exempt from the HLP process:

1. **Ministerial Projects**, such as the approval of building permits. However, other than issuing building permits for single-family residences and accessory structures on existing legal lots, the majority of building permits are associated with permits and land entitlements which likely require a Grading Permit, Brushing and Clearing Permit, and/or Improvement Plans. If, as a condition of approval, prior to obtaining a building permit, a Grading Permit, Brushing and Clearing Permit, and/or Improvement Plans are required, the applicant will be subject to the HLP process.
2. **Grading Permits in association with one single-family residence and accessory structure (not including mobile homes)** pursuant to Ordinance No. 8380, see Attachment B. This includes grading activities where more than 200 cubic yards and less than 3000 cubic yards of earth, or 5 feet or more of cut or fill is planned for the lot. The grading must occur upon a single lot or parcel of land, is incidental to the construction of a one-family dwelling and accessory buildings and structures excluding mobilehomes parks, and will not necessitate the construction of any extensive drainage structures or facilities or interfere with any drainage course
3. **Minor Grading** which involves a **cut** which is less than five feet (5') in vertical depth at its deepest point measured from the natural ground surface and which does not result in the movement of more than 200 cubic yards of material on any one site pursuant to the Grading Ordinance SEC. 87.201, see Attachment C.
4. **Minor Grading** which involves a **fill** which (1) is less than five feet (5') in vertical depth at its deepest point measured from the natural ground surface, (2) is placed on a surface having a slope not steeper than five horizontal to one vertical, (3) does not exceed 200 cubic yards of material on any one site, and (4) does not change the existing drainage pattern for an off-site area either above or below the grading site pursuant to the Grading Ordinance SEC. 87.201, see Attachment C.
5. **Clearing on lots with existing residences.** This is limited to parcels zoned for single-family residential use and improved with a single-family residence. In such cases, the parcel may be cleared up to a maximum of 5 acres without a County Clearing/Habitat Loss Permit pursuant to the Grading and Clearing Ordinance No. 9329, see Attachment D.



6. **Final Maps approved prior to March 2, 1994.** These Final Maps must be a project for which the Director has made a finding with concurrence of the U.S. Fish and Wildlife Service that (pursuant to the Amendment to the Habitat Loss Permit Ordinance No. 8608, see Attachment F):
  - a. A final map was approved prior to March 2, 1994 and is listed on Schedule A (see Schedule A within Ordinance No. 8365); and
  - b. The property is not occupied by the California gnatcatcher; and
  - c. Issuance of the a Grading Permit (pursuant to § 87.202 of the Grading Ordinance), Improvement Plans, or Grading and Clearing Permit (pursuant to § 2(b) of Ordinance No. 7415), referenced in § 86.102 of the Grading Ordinance pursuant to the final or parcel map will not preclude the development of preserves in the future.
7. Minor projects not requiring a Grading Permit, Brushing and Clearing Permit, or Improvement Plans. Examples include, but are not limited to: telecommunication facilities, utility facilities, second dwelling units, minor subdivisions on flat lands not requiring improvement plans.